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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

AUTUMN SHIBLEY, by and through
her Successor in Interest, ASHLY
NORINE PARRISH, ASHLY
NORINE PARRISH and JOANNA
MCCARTHY

Plaintiff,

vs.

COUNTY OF SAN BERNARDINO;
SAN BERNARDINO COUNTY
CHILD AND FAMILY SERVICES;
RHONDA CUFONE; ROSE
PICANINO; and DOES 1-10,

Defendants.

CASE NO. 5:19-CV-65

COMPLAINT FOR DAMAGES

- 1) VIOLATION OF 42 U.S.C. SECTION 1983;
- 2) VIOLATION OF 42 U.S.C. SECTION 1983—*MONELL* CLAIM
- 3) WRONGFUL DEATH-ASSAULT, BATTERY, AND TORTURE;
- 4) ASSAULT, BATTERY AND TORTURE;
- 5) VIOLATION OF CALIFORNIA CIVIL CODE SECTION 52.1;
- 6) BREACH OF MANDATORY DUTIES;
- 7) VIOLATION OF PENAL CODE SECTION 11166;

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- } 8) VIOLATION OF PENAL CODE
SECTION 273(a) AND (b);
- } 9) INTENTIONAL INFLICTION OF
EMOTIONAL DISTRESS;
- } 10) BREACH OF FIDUCIARY DUTY;
- } 11) NEGLIGENCE;

JURY TRIAL DEMANDED

1 Plaintiffs, Autumn Shibley (“Plaintiff”), by and through her successor in
2 interest Ashly Parrish (“PARRISH”), Ashly Parrish individually, and Joanna
3 McCarthy (“MCCARTHY”) individually allege as follows:

4 **JURISDICTION AND VENUE**

5 1. The jurisdiction of this Court is invoked under 28 U.S.C. 1331 in this
6 action under 31 U.S.C. Section 3730(h). Pursuant to 28 U.S.C. Section 1367, this
7 Court has supplemental jurisdiction over the subject matter of the Plaintiff’s state
8 law claims on the ground that these claims are so related to the claims within this
9 Court’s original jurisdiction that they form the same case or controversy under
10 Article III of the United States Constitution.

11 2. Venue of this action is proper in this judicial district by virtue of 28
12 U.S.C. Section 1391 because, among other things, the acts complained of occurred
13 in this judicial district and because one or more of the Defendants reside in this
14 judicial district and all of the Defendants reside in California.

15 **PARTIES**

16 3. Plaintiff Ashly Parrish was at all times relevant herein, a lawful
17 resident of San Bernardino County. All of the tortuous conduct of Defendants that is
18 complained of herein and which gives rise to the causes of action stated herein took
19 place in San Bernardino County. PARRISH is the mother of decedent Autumn
20 Shibley.

21 4. Plaintiff JoAnna McCarthy was at all times relevant herein, a lawful
22 resident of San Bernardino County. All of the tortuous conduct of Defendants that is
23 complained of herein and which gives rise to the causes of action stated herein took
24 place in San Bernardino County. MCCARTHY is the grandmother of decedent
25 Autumn Shibley. MCCARTHY and Autumn Shibley were an existing family unit.
26 Autumn Shibley lived with MCCARTHY for Autumn Shibley’s entire life (with the
27 exception of approximately 3 months) until Defendant San Bernardino County
28 Child and Family Services removed Autumn Shibley from MCCARTHY’S home in

1 which Autumn Shibley was living with both PARRISH and MCCARTHY. Further,
2 after Autumn Shibley was removed, MCCARTHY visited Autumn Shibley
3 approximately once per week and on holidays.

4 5. Defendant San Bernardino County Child and Family Services (“CFS”)
5 was and is a public agency ran by Defendant County of San Bernardino
6 (“COUNTY”), in San Bernardino, California.

7 6. Plaintiffs are informed and believe that Defendant Rhonda Cufone, is
8 at all times mentioned a children’s social worker for San Bernardino County Family
9 and Child Services in San Bernardino, California.

10 7. Plaintiffs are informed and believe that Defendant Rose Picanino, is at
11 all times mentioned a children’s social worker for San Bernardino County Family
12 and Child Services in San Bernardino, California. Rhonda Cufone, Rose Picanino
13 and DOES 1 through 10 are sometimes hereinafter refer to as “INDIVIDUAL
14 DEFENDANTS.”

15 8. The true names and/or capacities, whether individual, corporate,
16 associate or otherwise, of defendants Does 1 through 10, inclusive, and each of
17 them, are unknown to Plaintiffs, who therefore sues said Defendants by such
18 fictitious names. Plaintiffs are informed and believe, and upon such information and
19 belief allege, that each of the Defendants fictitiously named herein as a Doe is
20 legally responsible, negligently, or in some actionable manner, for the events and
21 happenings hereinafter referred to, and proximately caused the injuries and damages
22 to Plaintiff hereinafter alleged. Plaintiffs will seek leave of Court to amend this
23 Complaint to assert the true names and/or capacities of such fictitiously named
24 Defendants when the same have been ascertained.

25 9. Plaintiffs are informed and believe and thereon allege, that at all times
26 mentioned herein, Defendants, and each of them, including Does 1 through 10 are
27 individually and/or jointly liable in some manner for the wrongs alleged herein,
28 and/or jointly liable in some manner for the wrongs alleged herein, and/or were the

1 agents, servants, and/or co-conspirators of their Co-Defendants, and were, as such,
2 acting in concert, and that each and every Defendant, as aforesaid, when acting as
3 an individual and in concert, perpetrated the negligent and reckless acts herein
4 alleged and is responsible for the events and happenings herein set forth and
5 proximately caused injury to the Plaintiffs as herein alleged. The true names and
6 capacities of Does 1 through 10, inclusive, whether individual, corporate or
7 otherwise, are unknown to Plaintiffs at this time. Accordingly, Plaintiffs sue
8 Defendants Does 1 through 10 by fictitious names and will amend this pleading to
9 show their true names and capacities after they are ascertained.

10 **FACTUAL ALLEGATIONS**

11 10. Plaintiffs incorporate, by reference herein, the allegations in the
12 foregoing paragraphs, as though fully set forth herein.

13 11. Defendant San Bernardino County Child and Family Services (“CFS”)
14 removed Decedent and minor, Autumn Shibley (“DECEDENT” or “Baby
15 Autumn”) from the custody of mother, Ashly Parrish (“PARRISH”), and maternal
16 grandmother, Joanna McCarthy (“MCCARTHY”).

17 12. Plaintiffs are informed and believe that case workers for CFS, Rhonda
18 Cufone (“CUFONE”) and Rose Picanino (“PICANINO”), falsified reports related to
19 PARRISH and/or MCCARTHY, such that Decedent remained in foster care.

20 13. At some point, PARRISH complained to CFS via phone about
21 PICANINO and reported misconduct by PICANINO. Subsequently, PICANINO
22 called PARRISH and told her that PARRISH “will never see [her] kids again” and
23 PICANINO “would see to that.”

24 14. On information and belief, CUFONE was then put on the case.
25 CUFONE subsequently also told PARRISH that she would never see her children
26 again.

27 15. In or around late 2016, on the recommendations of CFS employees
28 CUFONE and PICANINO, DECEDENT was placed in the custody of her

1 biological father, FREEMAN. In so doing, defendants CUFONE and PICANINO
2 created a life-threatening danger to Baby Autumn that culminated in her brutal
3 murder.

4 16. FREEMAN has a history of violent behavior, including threatening his
5 then wife Crystal Victoria (“VICTORIA”) which resulted in VICTORIA obtaining
6 a temporary restraining order.

7 17. Instead of reviewing FREEMAN’s past history and taking express
8 action to protect the safety of DECEDENT, the COUNTY, CFS, CUFONE,
9 PICANINO, granted FREEMAN unmonitored sole physical custody of
10 DECEDENT, and by doing so put the DECEDENT’S life in immediate danger.

11 18. PARRISH and her mother, MCCARTHY discovered that FREEMAN
12 was physically abusing Baby Autumn, and promptly informed defendants, including
13 CUFONE and PICANINO of the imminent peril to Baby Autumn. However,
14 defendants did not take appropriate action to safeguard Baby Autumn and continued
15 to allow FREEMAN to have sole physical custody of Baby Autumn. Ultimately,
16 the actions of all of the named Defendants can be described as both reckless and
17 deliberately indifferent to the threats to Baby Autumn’s safety.

18 19. On or about June 11, 2017, FREEMAN murdered Baby Autumn by
19 brutally punching and kicking his daughter and submerging her head under water.

20 20. The sudden death of Baby Autumn caused PARRISH (the Decedent’s
21 mother and successor-in-interest) great loss and harm, included but not limited to
22 funeral-related expenses, loss of love for her child, companionship with her child,
23 affection, and moral support.

24 21. Additionally, the sudden death of Baby Autumn caused MCCARTHY
25 (the Decedent’s grandmother) great loss and harm, included but not limited to
26 funeral-related expenses, loss of love for her grandchild, companionship with her
27 grandchild, affection, and moral support. As set forth above, at the time of Baby
28 Autumn’s removal from the home, MCCARTHY and Baby Autumn were an

existing family unit. Baby Autumn lived with MCCARTHY for Baby Autumn's entire life (with the exception of approximately 3 months) until CFS removed baby Autumn from MCCARTHY'S home in which Baby Autumn was living with both PARRISH and MCCARTHY. Further, after Baby Autumn was removed, MCCARTHY visited Baby Autumn approximately once per week and on holidays.

22. This action is brought by Joanna McCarthy, as an individual and Ashly Parrish, as an individual and on behalf of Autumn both as a survivorship action and as a wrongful death action for the benefit of her heirs.

23. On or about December 5, 2017, Plaintiffs timely filed Tort Claim Notices under Government Code section 910 *et seq.* The Tort Claim was rejected on July 16, 2018.

FIRST CLAIM FOR RELIEF

(VIOLATION OF 42 U.S.C. SECTION 1983

Against Defendants, PICANINO, CUFONE and DOES 1-10,
on behalf of All Plaintiffs)

24. Plaintiffs incorporate by reference each and every allegation contained in the foregoing paragraphs.

25. As described above, the INDIVIDUAL DEFENDANTS violated Plaintiff, PARRISH's rights under the First and Fourteenth Amendment to the United States Constitution. INDIVIDUAL DEFENDANTS further violated Plaintiff, MCCARTHY'S rights and privileges under the Fourteenth Amendment to the United States Constitution. As described above, the INDIVIDUAL DEFENDANTS violated Baby Autumn's rights under the Fourteenth Amendment by failing to take reasonable steps to safeguard her from FREEMAN after placing AUTUMN in great danger by leaving her in FREEMAN's sole custody.

26. As a result of the INDIVIDUAL DEFENDANTS' conduct, Baby Autumn was forced to endure great conscious pain and suffering as a result of Freeman's violent attacks, culminating in her murder.

27. As a result of the INDIVIDUAL DEFENDANTS conduct, Defendants deprived PARRISH of her right to familial association with her daughter, Baby Autumn. As a further result of the INDIVIDUAL DEFENDANTS' conduct, Defendants deprived MCCARTHY of her right to familial association with her granddaughter, Baby Autumn, as they were part of an existing family unit and Baby Autumn lived with MCCARTHY for most of her life before Baby Autumn was removed from MCCARTHY'S home.

28. As a direct result of these INDIVIDUAL DEFENDANTS' violations, and in accordance with 42 U.S.C. § 1983, Plaintiffs' civil rights have been violated in that they have suffered, and will continue to suffer economic and noneconomic damages, including but not limited to, grief, physical and/or mental anxiety and anguish;, and in the matter, as authorized by 42 U.S.C. § 1988 in an amount not yet ascertained, all of which shall be shown according to proof at trial.

29. INDIVIDUAL DEFENDANTS' wrongful conduct as herein alleged was intentional, done with malice, and with conscious disregard for the rights of Plaintiffs herein, and as a result of their despicable conduct, Plaintiffs are therefore entitled to recover punitive damages from said Individual Defendants' wrongful acts for the purposes of punishing said Defendants and to deter others from such conduct in the future.

SECOND CLAIM FOR RELIEF

VIOLATION OF 42 U.S.C. SECTION 1983– *MONELL CLAIM*

(Against Defendants COUNTY OF SAN BERNARDINO AND CFS on behalf of
All Plaintiffs)

30. Plaintiffs incorporate by reference each and every allegation contained in the foregoing paragraphs.

31. Defendants COUNTY OF SAN BERNARDINO AND CFS established and/or followed policies, procedures, usage and/or practices (hereinafter referred to collectively as "policy" or "policies") which policies were the moving force behind

1 the violations of the Plaintiffs' constitutional rights, including those under the First
2 and Fourteenth Amendments, such policies include, but are not limited to, among
3 other things:

- 4 1. The policy of not investigating reports of abuse and acting with
5 deliberate indifference thereto; and
- 6 2. The policy compelling minors to reside with their abusers and
7 acting with deliberate indifference thereto; and
- 8 3. The policy of retaliating against persons who complain of
9 deficient performance.

10 32. These Defendants breached their duties and obligations to the Plaintiffs
11 by, among other things, failing to establish, implement, and follow the correct and
12 proper Constitutional policies, procedures, customs and practices; failing to properly
13 select, supervise, train, control, and review its agents and employees as to their
14 compliance with Constitutional safeguards; and by permitting their agents and
15 employees to engage in unlawful and unconstitutional conduct as alleged herein.

16 33. These Defendants breached their duties and obligations to the Plaintiffs
17 by, among other things, failing to establish, implement, and follow the correct and
18 proper Constitutional policies, procedures, custom and practices; failing to properly
19 select, supervise, train, control, and review its agents and employees as to their
20 compliance with Constitutional safeguards; and by permitting their agents and
21 employees as to their compliance with Constitutional safeguards; and by permitting
22 their agents and employees to remove children from places of safety and compel
23 them to live with their abusers.

24 34. The Defendants knew, or should have known, that by breaching these
25 duties and obligation, among others, it was foreseeable that they would, and did,
26 cause the Plaintiffs to be injured and damaged by their wrongful policies, or
27 deliberate lack thereof, or deliberate indifference to the need for such policies and/or
28 training and other acts as alleged herein, and that such breaches occurred in

1 contravention of public policy and their legal duties and obligations to Plaintiffs.

2 35. These actions and/or inactions by these Defendants are the moving
3 force behind, and the direct and proximate cause of the Plaintiffs' injuries and Baby
4 Autumn's death as alleged herein. Plaintiffs have sustained general and special
5 damages to an extent and amount to be proven at trial. In addition, the Plaintiffs
6 have incurred and will continue to incur, attorney's fees and costs and expense,
7 including those authorized by 42 U.S.C. §1988, to an extent and amount subject to
8 proof at trial.

9 **THIRD CLAIM FOR RELIEF**

10 (WRONGFUL DEATH – ASSAULT, BATTERY AND TORTURE–

11 Against all Defendants on behalf of Plaintiff ASHLY PARRISH individually)

12 36. Plaintiff incorporates by reference each and every allegation contained
13 in the foregoing paragraphs.

14 37. FREEMAN's assault, battery, and torture of the DECEDENT
15 culminated in the murder of DECEDENT.

16 38. Pursuant to the operation of *Code of Civil Procedure* section 377.60,
17 without limitation, the successor in interest PARRISH, is the heir, successor in
18 interest, and person lawfully entitled to assert a cause of action for the wrongful
19 death of decedent. No other person has any claim, right or interest in the cause of
20 action for wrongful death of the decedent that is superior to the claims by the
21 successor in interest, PARRISH.

22 39. Prior to her death, the DECEDENT was a family member of the
23 Successor in Interest. Prior to the death of DECEDENT, PARRISH was dependent
24 on the DECEDENT for, in part, love, comfort, compassion, solace, advice, and
25 moral and financial and other support, including assistance in the operation and
26 maintenance of the home.

27 40. As a direct, proximate and legal result of the combined wrongful
28 conduct by the COUNTY, CFS, CUFONE, PICANINO, and DOES 1 through 10,

1 and each of them, and the death of the DECEDENT, the Successor in Interest,
 2 PARRISH, has sustained pecuniary loss resulting from the loss of live, society,
 3 comfort, companionship, attention, services, solace, moral and future financial
 4 support of the decedent in an amount exceeding the jurisdictional limit of the Court
 5 and subject to proof at trial.

6 41. The aforementioned acts were committed and done willfully, wantonly
 7 and maliciously and said intended acts were malicious and oppressive and
 8 committed in complete disregard of the parties' rights, feelings, and well-being. As a
 9 result, the Successor in Interest, PARRISH, seeks punitive and exemplary damages
 10 against CUFONE, PICANINO, and DOES 1 through 10 in a sum according to proof
 11 at a time of trial within the discretion of this Court.

12 **FOURTH CLAIM FOR RELIEF**

13 (SURVIVAL ACTION – ASSAULT, BATTERY AND TORTURE –

14 Against all Defendants on behalf of Plaintiff AUTUMN SHIBLEY, by and
 15 through her successor-in-interest ASHLY PARRISH).

16 42. Plaintiff incorporates by reference each and every allegation contained
 17 in the foregoing paragraphs.

18 43. On or about June 11, 2017 the DECEDENT died of injuries inflicted
 19 upon her by Aaron Freeman.

20 44. Plaintiff ASHLY PARRISH, Successor in Interest, is or will be the
 21 Administrator of the Estate of AUTUMN SHIBLEY. Pursuant to the operation of
 22 *Code of Civil Procedure* § 377.10, Plaintiff ASHLY PARRISH, as Baby Autumn's
 23 successor-in-interest, lawfully succeeds to the causes of action held by the decedent
 24 at the time of her death.

25 45. Pursuant to the operation of *Code of Civil Procedure* § 377.11, Plaintiff
 26 PARRISH, succeeds to the interest of the decedent in this action. No other person
 27 has a superior right to continue this action or to be substituted for the decedent in
 28 this action.

1 46. As a legal result of the combined and concurrent wrongful conduct of
2 all Defendants, COUNTY, CFS, CUFONE, PICANINO, and DOES 1 through 10,
3 the estate of decedent has sustained pecuniary damages from the past and future loss
4 of income and earnings incurred and suffered by decedent.

5 47. Baby Autumn was subjected to extreme pain and suffering as a result
6 of defendant's conduct described herein before her death. Accordingly, her
7 successor-in-interest seeks the recovery for the noneconomic damages suffered by
8 Baby Autumn before her death.

9 48. As a legal result of the aforementioned combined and concurrent
10 wrongful conduct of all of Defendants, COUNTY, CFS, CUFONE, PICANINO,
11 and DOES 1 through 10, the estate of DECEDENT has sustained pecuniary
12 damages for funeral, burial, and incidental expenses incurred and paid on behalf the
13 DECEDENT.

14 49. Because the acts and omissions of Defendants CUFONE and
15 PICANINO, and DOES 1 through 10 were carried out in an oppressive, fraudulent,
16 malicious, deliberate, callous, intentional and/unreasonable manner, causing
17 DECEDENT's death and were done with a conscious disregard of DECEDENT's
18 rights and safety, the DECEDENT's estate is entitled to an award of punitive
19 damages pursuant to, without limitation, *Civil Code* § 3294 in an amount sufficient
20 to punish the Individual Defendants, and each of them, and to make an example of
21 them.

22 **FIFTH CLAIM FOR RELIEF**

23 (VIOLATION OF CALIFORNIA CIVIL CODE SECTION 52.1 –

24 Against all Defendants on behalf of All Plaintiffs, Except Joanna McCarthy)

25 50. Plaintiffs incorporate, by reference herein, the allegations in the
26 foregoing paragraphs as though fully set forth herein.

27 51. To the extent not separately responsible, Defendant COUNTY is
28 vicariously responsible for these INDIVIDUAL DEFENDANTS' conduct under

1 Government Code § 815.2; and its conduct is not immunized by Government Code
2 § 820.21.

3 52. As a result of the conduct of Defendants, and Does 1 through 10,
4 Inclusive, as adopted and incorporated by paragraphs previously set forth herein,
5 Defendants and each of them, have violated Plaintiffs' rights by interfering with
6 Plaintiffs' rights by threats, intimidation, or coercion, or attempts thereto, including
7 to force Plaintiffs' to conform to their demands, and in retaliation of Plaintiffs'
8 exercise of their rights, causing the violation and interference with the exercise and
9 enjoyment of Plaintiff's rights secured by the laws and Constitution of the United
10 States, and the Constitution and laws of the State of California, including by using
11 fabricated evidence, failure to disclose exculpatory evidence, and by obtaining
12 and/or attempting to obtain, evidence, and testimony by duress, fraud, and undue
13 influence in juvenile dependency and investigation proceedings.

14 53. As a direct and proximate result of the aforementioned conduct of
15 Defendants and each of them, Plaintiffs have suffered and will continue to suffer
16 damages, including great emotional and psychological distress, humiliation and
17 mental anguish, the nature and amount of which will be shown according to proof at
18 trial.

19 54. These violations of the Plaintiffs' rights by Defendants, and DOES 1
20 through 10, Inclusive, and each of them, are guaranteed and protected by Civil Code
21 § 52.1, entitling Plaintiffs to damages and relief, statutory civil penalty (including
22 \$25,000.00 as to each Individual Defendant) and attorney's fees, all of which are
23 requested herein.

24 55. In doing the acts alleged in this Complaint, Defendants, and each of
25 them, knew or should have known, that their actions were likely, or would, injure or
26 damage Plaintiffs and Plaintiffs are informed and believe, and thereon allege, that
27 the Individual Defendants, and each of them, intended to cause injury and damage
28 to Plaintiffs, and/or acted with a willful and conscious disregard of Plaintiff's rights,

1 thus entitling Plaintiffs to recover punitive damages as against said Individual
2 Defendants.

3 **SIXTH CLAIM FOR RELIEF**

4 (BREACH OF MANDATORY DUTIES-

5 Against all Defendants on behalf of Plaintiff AUTUMN SHIBLEY, by and
6 through her successor-in-interest ASHLY PARRISH).

7 56. Plaintiff incorporates, by reference herein, the allegations in the
8 foregoing paragraphs as though fully set forth herein.

9 57. Plaintiff is informed and believes that the Defendants possessed
10 mandatory duties which required them to, without limitation, investigate the
11 complaints of abuse, not compel the DECEDENT to reside with her abuser, and not
12 to be deliberately indifferent to her medical and psychological needs.

13 58. As described above, Defendants breached these duties.

14 59. PLAINTIFF is informed and believes that Defendants CFS, CUFONE,
15 and PIKANINO were made aware of Aaron Freeman's violent tendencies, including
16 violence against Baby Autumn in the time leading up to her murder.

17 60. As a direct and proximate result of Defendants' actions, Plaintiff has
18 suffered economic and non-economic damages as set forth above.

19 **SEVENTH CLAIM FOR RELIEF**

20 (VIOLATION OF PENAL CODE SECTION 11166-

21 Against all Defendants on behalf of Plaintiff AUTUMN SHIBLEY, by and through
22 her successor-in-interest ASHLY PARRISH).

23 61. Plaintiff incorporates, by reference herein, the allegations in the
24 foregoing paragraphs as though fully set forth herein.

25 62. Under the Child Abuse and Neglect Reporting Act, Defendant CFS and
26 Does 1 through 10, by and through their employees and agents, were "child
27 custodians" under a statutory duty to report known or suspected incidences of
28 sexual molestation or abuse of minors to a child protective agency, pursuant to

1 California Penal Code §11166. Pursuant to California Penal Code §11165.7, a
2 “mandated reporter” includes and is not limited to “[a]n administrator or employee
3 of a public or private organization whose duties require direct contact and
4 supervision of children [;]” and “[a]n employee of a child care institution, including
5 but not limited to, foster parents, group home personnel, and personnel of residential
6 care facilities.”

7 63. Defendants CFS, CUFONE, PICANINO, and DOES 1 through 10,
8 knew, suspected, or should have known or suspected in the exercise of reasonable
9 diligence, that FREEMAN had abused, caused battery, harm, and other injuries to
10 DECEDENT, who was a minor, giving rise to a duty to report such conduct under
11 §11166 of the California Penal Code. Yet, CFS, CUFONE, PICANINO, and DOES
12 1 through 10, failed to make such a report on timely basis.

13 64. By failing to report the continuing abuse known by Defendants, and
14 each of them, and by ignoring the fulfillment of the mandated compliance with the
15 reporting requirements provided under California Penal Code §11166, Defendants
16 created the risk and danger contemplated by the Child Abuse and Neglect Reporting
17 Act, and as a result, unreasonably and wrongfully exposed DECEDENT to the
18 abuse as alleged herein, thereby breaching Defendants’ duty of care.

19 65. DECEDENT was of the class of persons for whose protection
20 California Penal Code §11166 was specifically adopted to protect.

21 66. Had Defendants adequately performed their duties under §11166 of the
22 California Penal Code and reported the abuse of DECEDENT on a timely basis, the
23 report would have resulted in the involvement of case workers to remove the
24 DECEDENT from her abuser’s home, and prevent further harm to DECEDENT.

25 67. As a proximate result of CFS, CUFONE, and PICANINO, to timely
26 follow the mandatory reporting requirements of California Penal Code §11166, and
27 separately, as a result of DOES 1 through 10’s failure in the same regard,
28 DECEDENT was wrongfully denied, and restricted from receiving, the protection of

1 child protection agencies. These agencies would have changed the then-existing
 2 arrangements and conditions that provided FREEMAN the access and opportunity
 3 to brutally murder DECEDENT.

4 68. The physical, mental, and emotional damages and injuries resulting
 5 from the heinous acts of abuse and eventual murder of DECEDENT alleged herein,
 6 were the types of occurrences and injuries the Child Abuse and Neglect Reporting
 7 Act were designed to prevent.

8 69. As a direct result of the wrongful conduct alleged herein, PLAINTIFF
 9 PARRISH has suffered, and continues to suffer, among others, great pain of mind
 10 and body, shock, emotional distress, physical, cognitive and behavior manifestations
 11 of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and
 12 loss of enjoyment of life; has suffered and continues to suffer spiritually; was
 13 prevent and will continue to be prevented from performing Plaintiff's daily
 14 activities and obtaining the full enjoyment of life; has sustained and continues to
 15 sustain loss of future earning capacity; and/or has incurred and will continue to
 16 incur expenses for medical and psychological treatment, therapy, and counseling.

17 70. The decisions, acts, and inactions by CUFONE, PICANINO, and
 18 DOES 1 through 10, constituted malice, and willful and conscious disregard by
 19 Defendant CUFONE, PICANINO, and DOES 1 through 10, for the rights and safety
 20 of DECEDENT. As such, Plaintiff is entitled to recover punitive damages from all
 21 Individual Defendants in an amount according to proof.

22 **EIGHTH CLAIM FOR RELIEF**

23 (VIOLATION OF PENAL CODE SECTION 273(a) AND (b)- Against all
 24 Defendants on behalf of Plaintiff AUTUMN SHIBLEY, by and through her
 25 successor-in-interest ASHLY PARRISH)

26 71. Plaintiff incorporates, by reference herein, the allegations in the
 27 foregoing paragraphs though fully set forth herein.

28 72. Under circumstances or conditions likely to produce great bodily harm

1 or death, the Defendants CFS, CUFONE, PICANINO, and DOES 1 through 10,
2 willfully caused or permitted the person or health of the DECEDENT to be injured,
3 or willfully caused or permitted the Decedent to be placed in a situation where the
4 DECEDENT's person or health were endangered, in violation of California Penal
5 Code § 273a(b).

6 73. DECEDENT was within the class of persons to be protected by Penal
7 Code §273a(a),(b).

8 74. As a direct result of the wrongful conduct alleged herein, PLAINTIFF
9 suffered, among others, great pain of mind and body, shock, emotional distress,
10 physical, cognitive, and behavioral manifestations of emotional distress,
11 embarrassment, loss of self-esteem, disgrace, humiliation, loss of enjoyment of life;
12 has suffered spiritually, was prevented from performing daily activities and
13 obtaining the full enjoyment of life; has sustained loss of future earning capacity;
14 and/or has incurred expenses for medical and psychological treatment, therapy and
15 counseling.

16 75. The decisions, acts and inactions by CFS, CUFONE, PICANINO, and
17 DOES 1 through 10, constituted negligence, and further, constituted malice, a
18 willful and conscious disregard by Defendant CFS, CUFONE, PICANINO, and
19 DOES 1 through 10, for the rights and safety of DECEDENT. Plaintiff is informed
20 and believes, and based thereon alleges, that Defendant CFS, CUFONE,
21 PICANINO, and DOES 1 through 10 and their managing agents, officers, and/or
22 directors, authorized, adopted or ratified the wrongful and unlawful conduct of their
23 employees, subcontractors, and agents and/or are personally guilty of oppression,
24 fraud, or malice. As such, Plaintiff is entitled to recover punitive damages from all
25 INDIVIDUAL DEFENDANTS in amount according to proof.

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NINTH CLAIM FOR RELIEF

(INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS - Against all Defendants on behalf of All Plaintiffs, except for Joanna McCarthy)

76. Plaintiff incorporates, by reference herein, the allegations in the foregoing paragraphs though fully set forth herein.

77. All Defendants, and DOES 1 through 10, engaged in the aforementioned outrageous, unprivileged conduct as set forth herein, including but not limited to; retaliating against Plaintiff PARRISH, preventing Plaintiff PARRISH from exercising her right of free speech; providing the court with false information in a warrant to remove the minor children from their mother's care, custody, and control; by wrongfully and unlawfully removing and detaining DECEDENT; by investigating and questioning Plaintiff PARRISH with intimidation, coercion, and duress; by maliciously withholding exculpatory evidence; by falsely and maliciously alleging and reporting that the physical health and safety of DECEDENT were threatened by their mother; and by failing to provide evidence and information which would negate removal and detention of DECEDENT, including when properly and reasonably requested.

78. Defendant COUNTY is vicariously responsible for these Defendants' conduct under Government Code §815.2; and said conduct is not immunized including by Government Code §820.21.

79. These Defendants intended to cause, or acted in reckless disregard of causing physical and emotional distress when they engaged in such conduct, which they knew not to be true and proper.

80. As a legal result of Defendants' tortious conduct, Plaintiff suffered physical and emotional distress, including, but not limited to, fright, nervousness, anxiety, worry, mortification, shock, humiliation, and indignity to an extent and in an amount subject to proof at trial.

81. All INDIVIDUAL DEFENDANTS, and Does 1 through 10, Inclusive,

1 knowingly and willfully acted with malice and oppression and with the intent to
 2 harm Plaintiff in a despicable manner. Therefore, Plaintiff is entitled to an award of
 3 punitive damages for the purpose of punishing these Individual Defendants and to
 4 deter them and others from such conduction in the future.

5 **TENTH CLAIM FOR RELIEF**

6 (BREACH OF FIDUCIARY DUTY –

7 Against all Defendants on behalf of Plaintiff AUTUMN SHIBLEY, by and
 8 through her successor-in-interest ASHLY PARRISH)

9 82. Plaintiff incorporates, by reference herein, the allegations in the
 10 foregoing paragraphs though fully set forth herein.

11 83. Defendant CFS, is a department within San Bernardino County
 12 dedicated to protecting and promoting the wellbeing of abused, neglected or
 13 exploited children. CFS reviews allegations of child abuse and neglect made within
 14 San Bernardino County and provides intervention and support services to families
 15 and children when those allegations are sustained. CFS “provide[s] family-centered
 16 programs and services designed to ensure a safe, permanent, and nurturing
 17 environment for children while strengthening and attempting to preserve the family
 18 unit.” (<http://hs.sbcounty.gov/cfs/AboutUs/Pages/Who-Are-We.aspx>). As a result,
 19 CFS placed DECEDENT, a vulnerable child, in the care of FREEMAN, who had a
 20 history of violent outbursts.

21 84. Because of DECEDENT’s young age and unique vulnerabilities as a
 22 traumatized youth, and because of the status of Defendants and their relationship
 23 with Plaintiff, Defendant CFS and DOES 1 through 10, had and breached their
 24 fiduciary duty to Plaintiff by engaging in the wrongful conduct described above and
 25 herein.

26 85. As a direct result of the wrongful conduct alleged herein, Plaintiff has
 27 suffered, among others, great pain of mind and body, shock, emotional distress,
 28 physical, cognitive, and behavioral manifestations of emotional distress,

embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; has suffered spiritually; was prevented from performing Plaintiff's daily activities and obtaining the full enjoyment of life; has sustained loss of future earning capacity; and/or has incurred expenses for medical and psychological treatment, therapy, and counseling.

86. All INDIVIDUAL DEFENDANTS, and Does 1 through 10, Inclusive, knowingly and willfully acted with malice and oppression and with the intent to harm Plaintiffs in a despicable manner. Therefore, Plaintiffs are entitled to an award of punitive damages for the purpose of punishing these Individual Defendants and to deter them and others from such conduction in the future.

ELEVENTH CLAIM FOR RELIEF

(NEGLIGENCE –

Against all Defendants on behalf of Plaintiff AUTUMN SHIBLEY, by and through her successor-in-interest ASHLY PARRISH).

87. Plaintiff incorporates, by reference herein, the allegations in the foregoing paragraphs though fully set forth herein.

88. Defendants owed DECEDENT and Plaintiff a duty of care when they expressly became aware of the allegations physical abuse, along with the evidence gathered by DECEDENT's mother showing the on-going physical and emotional abuse by the Decedent's father, should have resulted in the Decedent's father losing all access to his daughter.

89. Further, Defendants owed a duty to supervise Decedent and make sure that he was not put in the immediate physical danger which resulted in his death.

90. Further, Defendants CFS, CUFONE and PICANINO are all mandated reporters pursuant to California Penal Code §11165.7.

91. Pursuant to California Penal Code §11165.9 Defendants CFS, CUFONE, and PICANINO were mandated by law to report "suspected child abuse or neglect" to "any police department of sheriff's department, not including a school

1 district police or security department, county probation department, if designated by
 2 the county to receive mandated reports, or the county's welfare department." *See*
 3 California Penal Code §11165.9.

4 92. Defendants CUFONE and PICANINO breached their duties to the
 5 Decedent and Plaintiff by failing to (1) report, (2) properly review, and (3) act on
 6 the complaints/information provided by the Decedent's mother to CFS and the
 7 Dependency Court, that the Decedent was being put in immediate physical danger.

8 93. As an actual, proximate, legal, and foreseeable result of Defendant's
 9 conduct, Decedent suffered wrongful death and Decedent's Successor in Interest has
 10 suffered and continues to suffer significant injury, including but not limited to,
 11 funeral-related expenses, loss of love, companionship, comfort, care assistance,
 12 protection, affection, society and moral support and other past and future pecuniary
 13 losses and general damages.

14 94. All Individual Defendants, and Does 1 through 10, Inclusive,
 15 knowingly and willfully acted with malice and oppression and with the intent to
 16 harm Plaintiffs in a despicable manner. Therefore, Plaintiffs are entitled to an award
 17 of punitive damages for the purpose of punishing these Individual Defendants and
 18 to deter them and others from such conduction in the future.

19 **PRAYER FOR RELIEF**

20 Wherefore, PLAINTIFFS ASHLY PARRISH, individually and as Successor
 21 in Interest, and JOANNA MCCARTHY individually, pray for judgment against
 22 Defendants COUNTY OF SAN BERNARDINO, SAN BERNARDINO COUNTY
 23 CHILD AND FAMILY SERVICES, RHONDA CUFONE, ROSE PICANINO, and
 24 DOES 1 through 10 as follows:

- 25 1. For general damages, the exact amount of which will be proven at trial;
- 26 2. For special damages for medical and related expenses according to
 27 proof;
- 28 3. For special damages for funeral-related expenses according to proof;

4. For punitive damages against the Individual Defendants;
5. For statutory damages as permitted by law;
6. For reasonable attorney's fees;
7. For interest;
8. For costs of suit incurred herein; and
9. For such other and further relief as the Court deems just and proper.

Dated: January 10, 2019

SoCal Justice Law Group, P.C.

SCHONBRUN SEPLOW
HARRIS & HOFFMAN LLP

The Cochran Firm-California

/s/Wilmer J. Harris

By:

Wilmer J. Harris
Stephanie T. Yu
Attorneys for Plaintiff

JURY DEMAND

Plaintiffs hereby demand a jury trial.

Dated: January 10, 2019 SoCal Justice Law Group, P.C.

SCHONBRUN SEPLOW
HARRIS & HOFFMAN LLP

The Cochran Firm-California

/s/Wilmer J. Harris

By: _____

Wilmer J. Harris
Stephanie T. Yu
Attorneys for Plaintiff